



March 12, 1999

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR99-0703

Dear Mr. Weir:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122773.

The City of San Antonio (the "city") received a request for "[a]ll completed, injured prisoner reports from the past two years." You submitted to this office a representative sample of information that is responsive to the request.¹ You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 5.08 of article 4495b of Vernon's Texas Civil Statutes. We have considered the exception you claim and reviewed the submitted information.

The release of medical records is governed by section 5.08 of article 4495b of Vernon's Texas Civil Statutes, the Medical Practice Act (the "MPA"), which provides:

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit a representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

March 9, 1999

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR99-

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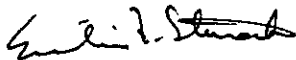
a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Section 5.08(j)(3) also requires that any subsequent release of medical records be consistent with the purposes for which a governmental body obtained the records. Open Records Decision No. 565 at 7 (1990). The portion of a completed Injured Prisoner Report that was created by a physician may be released only in accordance with these provisions of the MPA. Open Records Decision No. 598 (1991). We have marked the information that is subject to the MPA. The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 122773

Enclosures: Marked documents

cc: Mr. John Tedesco
San Antonio Express-News
P.O. Box 2171
San Antonio, Texas 78297
(w/o enclosures)